

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION

HANNAH SILBAUGH,
Plaintiff

v.

MARC NELSON, DAVID SMITH,
ANTHONY ATTALLA, JOHN DOE 4,
JOHN DOE 5, DANIEL SPIZARNY,
JOSEPH V. SCHEMBER, and CITY OF
ERIE,
Defendants

: CIVIL ACTION – LAW
: Docket No. 1:20-cv-00252-SPB
: *Electronically Filed*
: **JURY TRIAL OF 12 DEMANDED**
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:
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**PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' SECOND MOTION
FOR EXTENSION OF TIME**

NOW COMES the Plaintiff, Hannah Silbaugh, by counsel and respectfully responds to Defendants' Motion for Extension of Time to File Response to Plaintiff's Amended Complaint, respectfully representing:

1. Admitted that, on September 2, 2020, this Court, over the Plaintiff's

strenuous opposition, granted the Defendants a Motion for Extension of Time to File a Response to Plaintiff's Complaint, which has been in Defendants' possession since August 12, 2020.

2. It is admitted that Defendants sent an email requesting that Plaintiff abandon her claims against Mayor Schember, Chief Spizarny and the City of Erie. For obvious reasons, she declined to do this, but accepted the Defendants' criticism of her Complaint and filed an Amended Complaint more specifically pointing the individual violations of duty of the Mayor and the Chief.

3. Admitted that Defendants sent a letter requesting that Plaintiff abandon the majority of her claims, which she declined to do. See attached Exhibit "A."

4. In response to the nonsensical Paragraph 4 of Defendants' Motion, contrary to Defendants' implication, no new parties were added. Plaintiff merely amplified her allegations against Chief Spizarny and Mayor Sember regarding their personal failings to respect Plaintiff's constitutional rights.

5. In accordance with the established procedures, the ECF system recalculated the due date under the rules, which give Defendants' fourteen days to respond.

6. Plaintiff objects to a further extension of time.

7. It is admitted that the Defendants requested an extension until October 2nd to file their response. Counsel for Plaintiff immediately responded that the extension would be granted if the intention was to file an answer rather than a Motion under Rule 12, Plaintiff having remedied the defects in her complaint alleged in Defendants' counsel's prior correspondence. See email from Plaintiff Counsel to Defendant Counsel, attached as Exhibit "B."

8. Defendant apparently intends to delay this case as long as possible by filing a meritless Motion under Rule 12. Plaintiff believes that this will consume significant time while the Court deals with the Motion and inevitable briefing, all of which will be for naught.

9. Again, Plaintiff will gladly consent to October 2nd for the filing of an Answer, but if Defendant intends to delay these proceedings unnecessarily through the filing of a motion under Rule 12, it should do so *sec leg.*

WHEREFORE, Plaintiff respectfully requests that this Honorable Court DENY Defendants' Second Motion for extension of Time.

Respectfully submitted,

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